

§ 982.41

restricted percentages shall become effective 30 days prior to the end of the marketing year, or earlier as may be recommended by the Board and approved by the Secretary. The recommendations to the Secretary shall include the following:

(i) The estimated tonnage of merchantable hazelnuts expected to be produced during the marketing year.

(ii) The estimated tonnage of inshell hazelnuts held by handlers on the first day of the marketing year which may be available for handling as inshell hazelnuts thereafter.

(iii) Any other pertinent factors bearing on the marketing of hazelnuts during the marketing year.

Whenever the Secretary finds, on the basis of the recommendation of the Board or other available information that, to establish the interim final and final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

(d) *Grade and size regulations.* Prior to September 20, the Board may consider grade and size regulations in effect and may recommend modifications thereof to the Secretary.

(e) *Revision of marketing policy.* At any time prior to February 15 of the marketing year, the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided*, That in no event shall any such recommendation provide for free and restricted percentages based on an inshell trade demand which is more than 125 percent of the average of the preceding three years' trade acquisitions computed pursuant to paragraph (b) of this section for that marketing year. At any time during the period December 1 through February 10 at the request of two or more handlers, who during the preceding marketing year handled at least 10 percent of all hazelnuts handled, the Board shall meet to determine whether the marketing policy should be revised.

[51 FR 29548, Aug. 19, 1986, as amended at 61 FR 17560, Apr. 22, 1996]

§ 982.41 Free and restricted percentages.

The free and restricted percentages computed by the Board or established

7 CFR Ch. IX (1-1-06 Edition)

by the Secretary pursuant to § 982.40 shall apply to all merchantable hazelnuts handled during the current marketing year. Until the preliminary computed free and restricted percentages are computed by the Board for the current marketing year, the percentages in effect at the end of the previous marketing year shall be applicable.

[51 FR 29548, Aug. 19, 1986]

GRADE AND SIZE REGULATION

§ 982.45 Establishment of grade and size regulations.

(a) *Minimum standards.* No handler shall handle any inshell or shelled hazelnuts unless such inshell hazelnuts meet requirements of Oregon No. 1 grade and medium size (as defined in the Oregon Grade Standards Hazelnuts In Shell), and such shelled hazelnuts meet such requirements as are established by the Secretary on the basis of a recommendation of the Board, except as may be otherwise provided in § 982.57. These minimum standards may be modified by the Secretary on the basis of a recommendation of the Board or other information whenever he finds that such modification would tend to effectuate the declared policy of the act. Such minimum standards and the provisions of this part relating to the administration thereof shall continue in effect irrespective of whether the season average price of hazelnuts is above the parity level specified in section 2(1) of the act.

(b) *Additional grade and size regulations.* When the season average price of hazelnuts is not determined to be above parity, the Secretary may establish additional grade and size regulations for inshell hazelnuts in the form of a more restrictive minimum standard than that specified in paragraph (a) of this section, or pack specifications as to grades and sizes that may be handled, if he finds, on the basis of a recommendation of the Board or other information, that such regulations would tend to effectuate the declared policy of the act.

[24 FR 6185, Aug. 1, 1959. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 37 FR 589, Jan. 14, 1972]